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IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF CALIFORNIA

E. & J. GALLO WINERY, a California) corporation,

Plaintiff,

v.

ANDINA LICORES S.A., a corporation organized under the laws of Ecuador,

Defendant

CV F 05-0101 AWI LJO

ORDER SETTING DEADLINE FOR OPPOSITION TO DEFENDANT'S MOTION TO STAY AND FOR TRO OR PRELIMINARY INJUNCTION AND SETTING DATE FOR ORAL ARGUMENT THEREON

In this action for breach of contract and declaratory relief, defendant Andina Licores S.A. ("Andina") has applied *ex parte* for a stay of proceedings pending appeal and for temporary restraining order ("TRO"), or preliminary injunction, or, in the alternative, for modification of the preliminary injunction issued by this court on March 4, 2006. Andina seeks, among other things, to prevent plaintiff E. & J. Gallo Winery ("Gallo") from seeking dismissal of Andina's action currently pending in the Second Civil Court of Guayaquil, Ecuador, where Andina has been prevented from further participation in that proceeding by order of this court.

Pursuant to Rule 65(b), Federal Rules of Civil Procedure, a temporary restraining order may be granted without notice to the adverse party only if: 1) it clearly appears from specific facts shown by affidavit or verified complaint that immediate and irreparable injury, loss or damage will result before the adverse party can be heard in opposition, and 2) the

Case 1:05-cv-00101-AWI-LJO Document 160 Filed 07/07/06 Page 2 of 2

applicant's attorney certifies the reasons that notice should not be required. The court has reviewed Andina's application and finds that Andina has not stated facts sufficient to show immediate and irreparable injury that would require the court's decision before the adverse party can be heard in opposition. However, the court finds Andina has stated facts sufficient to show a need for consideration of injunctive relief at the earliest possible time. The court will therefore direct opposition briefing and schedule a hearing at the earliest possible time consistent with the court's availability.

THEREFORE, it is hereby ORDERED that Gallo may file and serve any opposition to Andina's application for stay pending appeal, issuance of TRO or preliminary injunction, or modification of preliminary injunction not later than 4:00 p.m. on Tuesday July 11, 2006. Hearing on Andina's application will be held at 9:00 a.m. on Tuesday, July 18, 2006, in courtroom 2.

IT IS SO ORDERED.

Dated: July 7, 2006 0m8i78 /s/ Anthony W. Ishii UNITED STATES DISTRICT JUDGE